

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BOBBIE JONES,

Petitioner,

v.

Case Number: 2:11-CV-14449
Honorable Patrick J. Duggan

STEVE RIVARD,

Respondent.

_____ /

ORDER DENYING PETITIONER'S MOTION TO HOLD
HABEAS PETITION IN ABEYANCE

Petitioner Bobbie Jones ("Petitioner"), a state prisoner currently incarcerated at the St. Louis Correctional Facility in St. Louis, Michigan, filed a *pro se* petition for a writ of habeas corpus on October 11, 2011. Respondent filed an answer in opposition on April 16, 2012. Now before the Court is Petitioner's motion asking the Court to hold the petition in abeyance so that he may "properly exhaust his third claim in the state court."

In *Rhines v. Weber*, 544 U.S. 269, 125 S.Ct. 1528 (2005), the Supreme Court approved a procedure for holding habeas corpus actions in abeyance to allow petitioners to return to the state courts to present unexhausted claims. In *Rhines*, the Court recognized a district court's discretion to stay a habeas corpus proceeding pending prompt exhaustion of state remedies if there is "good cause" for the petitioner's failure to exhaust and if petitioner's unexhausted claims are not "plainly meritless." *Rhines*, 544 U.S. at 277-78.

Petitioner asks for a stay so that he may exhaust his third claim in state court. His

petition, however, raises only this claim: that he was denied a fair trial by ineffective assistance of counsel and an improper jury instruction for self defense. Petitioner does not specify what his third, unexhausted claim would be. He has neither asserted nor shown good cause for failing to exhaust this unidentified claim, nor can the Court assess the merit of an unidentified claim. Thus, Petitioner fails to present a basis on which the Court may stay these proceedings.

Accordingly,

IT IS ORDERED that Petitioner's Motion to Hold Habeas Petition in Abeyance (ECF No. 9) is **DENIED**.

Dated: March 22, 2013

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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AAG Elizabeth M. Rivard